

**MINUTES**  
**REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS**  
**Tuesday, January 27, 2009, at 9:00 a.m.**  
**DNRC Bannack Conference Room**  
**1625 11<sup>th</sup> Avenue, Helena, MT**

*PRESENT: Governor Brian Schweitzer, Auditor Monica Lindeen, Attorney General Steve Bullock, Secretary of State Linda McCulloch, and Superintendent of Public Instruction Denise Juneau*

Ms. McCulloch moved for approval of the minutes from the December 15, 2008, meeting of the Board of Land Commissioners. Seconded by Ms. Lindeen. Motion carried unanimously.

**ACTION ITEMS**

**109-1      TIMBER SALE: WEIMER CREEK (SALVAGE)**

Ms. Sexton stated that the Weimer Creek salvage timber sale is 50 acres, 2.5 miles southeast of Jefferson City in an area infested with mountain pine beetle. The sale is near the Clancy/Unionville Forest Service project (tree thinning for fire hazard/forest management), which was recently upheld in the Ninth Circuit Court. The estimated sale volume is 3150 tons, with an estimated minimum value of \$8,894.51. No new roads will need to be created for this sale.

Motion made by Mr. Bullock to approve the timber sale. Seconded by Ms. Juneau.

Ms. Juneau asked how the public is notified of upcoming timber sales?

Ms. Sexton stated that the DNRC maintains a mailing list of interested parties, and publishes notice in the local newspaper(s).

Shawn Thomas, Forestry Management Division Bureau Chief, stated that the Montana Environmental Policy Act (MEPA) requires public scoping, which can differ according to the type of project. Types of scoping range from notifying neighboring landowners and publishing notice in local newspapers to holding public meetings and tours of the harvest area.

Weimer Creek is a time-sensitive, emergency salvage sale. The salvage is best done in winter conditions to enable stream crossing with logging equipment.

Ms. Sexton referenced the upcoming White Porcupine timber sale in the Swan Valley as an example of a sale which has received extensive EIS materials for public notification.

**Motion to approve the timber sale carried unanimously.**

Governor Schweitzer noted that there is also a similar notification process for oil and gas lease sales. That process is currently evolving, and at some point in the future, the DNRC will elaborate to the Land Board on that process.

**109-2      SET MINIMUM BID FOR LAND BANKING PARCEL**

*Ms. Sexton gave an overview of the land banking process for the new Land Board members.*

Ms. Sexton stated that the parcel is 63 acres in Custer County, with a recommended minimum bid of \$31,600.

Motion made by Ms. McCulloch to set the recommended minimum bid. Seconded by Ms. Lindeen.

Mr. Bullock asked what the leasing revenues had been for the parcel?

Tom Schultz, Trust Land Management Division Administrator, stated that the parcel would have generated \$110 per year.

Governor Schweitzer asked Ms. Sexton to describe the land banking policy with previous land boards.

Ms. Sexton explained that there are 5.2 million acres of state land. A portion of those acres are isolated with no public access. The objective of the land banking program is to sell low producing, isolated parcels and acquire parcels with public access that generate a greater rate of return than the properties sold. Parcels may only be nominated by the Land Board, DNRC, and the lessee. The isolated sale parcels are appraised in their current condition with no legal access, and also with the hypothetical condition that they have legal access. The Land Board's policy has been to sell isolated parcels at the hypothetical value, as if they have legal access. The lessee and or adjacent landowner that typically purchases the property has legal access and would realize an immediate increased value if purchased at the lower isolated value. Ms. Sexton cited two examples where the minimum bid was challenged, and noted that the Land Board has been consistent in setting the minimum bid at the higher amount (with access).

**Motion to set the minimum bid carried unanimously.**

#### **109-3 RIGHTS-OF-WAY**

*Ms. Sexton gave an overview of the types of easements.*

- ♦ Historic access road easements are roads that are already in existence, with the applicant requesting an easement to gain access to his property.
- ♦ New electric utility easements are for a new easement in order to build transmission lines.
- ♦ New telephone utility easements are similar to electric utility easements, although the lines are often buried underground.
- ♦ Public highway easements are with the Department of Transportation. In this instance, the application is to replace existing small bridges over small stream crossings with culverts.

Governor Schweitzer clarified that a Land Board member may request to segregate out individual applications, if necessary.

**Motion made by Ms. Lindeen to approve the easements. Seconded by Ms. McCulloch. Carried unanimously.**

*Ms. Lindeen left the meeting.*

#### **INFORMATIONAL ITEMS**

Mr. Schultz noted that the DNRC received accolades for its work from the House Natural Resources Committee during the hearing on January 26, 2009, for HB14 (general obligation bonds for state government).

**109-4 FISCAL YEAR 2008 HIGHLIGHTS PRESENTATION**

Mr. Schultz reviewed highlights of fiscal year 2008 for the new board members. He explained how the Enabling Act of 1889 gave the state sections 16 and 36 out of every township (six percent of each township), for a total of 5.8 million acres to benefit the common schools and university system of Montana.

State land in western Montana offers greater access than the land in eastern Montana. The DNRC endeavors to gain access, both for management purposes and for the public. Access gives lands greater value and can be gained through land banking, access exchanges, land exchanges, and direct acquisition. The goals of the Trust Land Management Division are:

- ♦ to be the employer of choice;
- ♦ exert leadership in the stewardship of Montana's natural resources;
- ♦ create an adaptable organization that can drive and respond to change;
- ♦ increase outreach and involvement; and
- ♦ manage surface and mineral resources to provide substantial levels of trust revenue, stewardship, and public benefit consistent with the fiduciary duties and legal commitments.

In FY 08 there were 143,405 children enrolled in public schools. The average state share is \$5092 per pupil, of which 7.32 percent is generated by trust land activities. That equals \$373 per pupil. Additional funds generated in FY 08:

- ♦ Technology Acquisition Fund – \$1,948,830
- ♦ School Facility Improvement Fund - \$15,382,591

The school trust beneficiaries are:

- ♦ Common Schools (K-12 Education) – receives 90 to 95 percent;
- ♦ University of Montana;
- ♦ MSU – Morrill Grant;
- ♦ MSU – Second Grant;
- ♦ Montana Tech (Butte);
- ♦ University of Montana (Western);
- ♦ Montana State University (Billings);
- ♦ State Reform School (Pine Hills);
- ♦ State Normal School;
- ♦ School for the Deaf and Blind;
- ♦ Veteran's Home; and
- ♦ Public Buildings (i.e. Capitol building).

The types of trust revenue are:

- ♦ distributable revenue, which is funds that get put into the school system on an annual basis; and
- ♦ non-distributable revenue, which historically has come from land sales, oil and gas, and other non-renewable resources. The current balance for the entire trust is \$430 million. The permanent fund earns approximately 5.5 percent interest annually, generating \$26 to \$30 million, which is distributed to the schools on an annual basis.

Ms. Juneau noted that the revenue generated from the acquisition of 25,000 acres [discussed during the HB 14 bonding bill hearing] would go directly to the School Facility Improvement Fund.

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Mr. Schultz stated that the current revenues for the School Facility Improvement Fund are generated from oil and gas. In the future, additional revenue will be generated from navigable riverbeds.

TLMD's four bureaus are:

- ♦ Agriculture and Grazing Management Bureau – generated \$12.8 million in agriculture and \$7.1 in grazing. The bureau completes inspections of leased tracts, conducts cultural and paleontological inventories, works with the Water Court for water rights on trust lands, participates in biocontrol collections, and hired two wardens from FWP to assist in education and enforcement of recreational use on state lands;
- ♦ Forest Management Bureau – conducts timber sales to both generate revenue and manage state forest lands (53 million board feet in 2008). The bureau drafted a Habitat Conservation Plan (HCP) which will be available for review in March 2009. Additionally, the bureau has done a great deal of forest management reclamation;
- ♦ Minerals Management Bureau – primary revenue generator for the state. It generated \$37,453,810 from oil, gas, coal, and other sources. State lands produced two million barrels of oil in FY 08. The bureau is also involved in the restoration of the McDonald Mine in Lincoln; and
- ♦ Real Estate Management Bureau – generated \$11,438,972 from easements, cabinsite and conservation leasing, land sales, land banking, and navigable river revenue. In the future, the bureau is anticipating \$10 million annually from hydropower revenue on navigable waterways. Bureau activities include the Spring Prairie Center in Kalispell and wind energy project developments at Judith Gap, Martinsdale, and Springdale.

Mr. Schultz referenced the purchase of the Tongue River Ranch in 2006 as an example of land banking working to the advantage of the DNRC by both gaining exponential access and partnering with conservation groups (e.g. Pheasants Forever).

Ms. Sexton stated that the value brought to communities through the newly gained access from land banking acquisitions averages to \$10,000 per acre.

Governor Schweitzer noted that state typically sells land with low revenue returns and purchases land with higher value potentials.

Mr. Schultz stated that the REMB sold 5000 acres in 2008, which were valued at \$2.78 million. The annual income from those lands was approximately \$7000. The lands acquired have doubled that rate of return for the trust.

Mr. Bullock asked if the DNRC buys as many acres as are sold?

Mr. Schultz said that to date, the state has sold 28,000 acres and has acquired 31,000 acres. While the numbers may fluctuate from year to year, the goal is to keep the exchange as close to even as possible.

Jeanne Holmgren, Real Estate Management Bureau Chief, noted that the 28,000 acres sold had generated approximately \$39,000; while the acquired 31,000 acres will generate approximately \$302,000.

Mr. Schultz stated that the REMB has also begun developing commercial properties. In Kalispell, state land that had been leased for agriculture and generated \$2000 annually has been developed as a commercial property. It now generates \$500,000.

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The DNRC is also active in developing wind energy projects in Martinsdale and Springdale. The state owns ten percent of the turbines on the Judith Gap Wind Farm, which has generated \$60,000. Previously the land was used for grazing and generated \$600 annually.

*Mr. Bullock left the meeting.*

**PUBLIC COMMENT**

**PROPOSED LOLO LAND EXCHANGE/DNRC AUM RATES**

*(See Item No. 105-6 from the January 18, 2005, Land Board meeting for further information on the proposed Lolo land exchange.)*

Denley Loge, grazing lessee, stated that his land is in the middle of land proposed for trade between the DNRC and the USFS. He said there should be a downward adjustment to the grazing fee structure on forested lands. Eastern Montana land is four acres per AUM, while Mr. Loge's forested area is ten acres per AUM. He stated that the Land Board should consider adjusting fees to consider the extra expense required to locate and tend to herds in a forested area as opposed to the expense and effort in flatlands.

Mr. Loge stated that the DNRC had held a timber sale on state land in the area several years prior. Hound's-tongue (a noxious weed) began to spread from where the slash had been burned. Mr. Loge stated that the Hound's-tongue has begun to encroach upon his property despite his efforts to curb it (see attached photos). Mr. Loge believes that he should not be accountable for control of this noxious weed on his property since the problem originated from the state timber sale.

**Motion to adjourn made by Ms. McCulloch. Seconded by Ms. Juneau. Motion carried 3-0 (*Mr. Bullock and Ms. Lindeen absent*).**